

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CV-46 KG/SMV

NEW MEXICO ENVIRONMENT
DEPARTMENT, and JAMES KENNEY,
Secretary (in his official capacity),

Defendants.

ORDER SETTING HEARING

This matter is before the Court on Defendant's Request for Judicial Notice regarding an attached letter. (Doc. 63). The United States responded in opposition, not to judicial notice per se, but to the relevance or futility of the content of the letter. (Doc. 64). The Court hereby sets a hearing on the Request on **June 22, 2022, at 8:30 am**, to be conducted via Zoom videoconference.

In its Request, the New Mexico Environment Department (NMED) and Secretary James Kenny, Defendants, ask this Court to take judicial notice of a letter from the United States Environmental Protection Agency (EPA) to Governor Lujan Grisham. (Doc. 63) Ex. 1; *see also* U.S. Environmental Protection Agency, Letter in Response to New Mexico Governor's PFAS Petition (Oct. 26, 2021), https://www.epa.gov/system/files/documents/2021-10/oct_2021_response_to_nm_governor_pfas_petition_corrected.pdf. In the letter, the EPA commits to initiate rulemakings to add PFAS chemicals to the EPA list of defined hazardous waste and to clarify that RCRA Corrective Action Programs may regulate waste under the broader statutory definition of hazardous waste, which would ostensibly cover PFAS.

At the hearing, the parties shall address the question whether and how the proposed rulemaking affects the pending litigation and the underlying hazardous waste permit.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE